

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2279 – SB 2504

April 3, 2018

SUMMARY OF ORIGINAL BILL: Authorizes a municipality, county, or the state (an Authority) to develop an application process, fee, and rate structure for installation of small wireless facilities (SWF) on structures used for electric distribution, lighting, traffic control, and signage. Prohibits an Authority from certain practices and establishing certain restrictions relative to SWF.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$423,600/FY18-19/Highway Fund
\$423,600/FY19-20/Highway Fund
\$3,667,900/FY20-21 and Subsequent Years/
Highway Fund

Increase Local Revenue – Exceeds \$1,000,000/FY18-19
Exceeds \$1,010,000/FY19-20
Exceeds \$1,020,000/FY20-21
Exceeds \$40,000/FY21-22 and Subsequent Years

Other Fiscal Impact – A precise increase in local government expenditures for the hiring of additional staff for permit processing cannot reasonably be determined.

In addition, passage of this legislation could place the Department of Transportation out of compliance with federal regulations and could jeopardize federal funding. The amount and timing of federal funding jeopardized is unknown. The Governor's recommended budget document, on page B-321, identifies \$1,013,371,700 in federal funding to the Department.

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue –
Exceeds \$2,000,000/FY19-20 and Subsequent Years

Increase Business Expenditures –
Exceeds \$2,000,000/FY18-19
Exceeds \$2,010,000/FY19-20
Exceeds \$2,020,000/FY20-21
Exceeds \$40,000/FY21-22 and Subsequent Years

HB 2279 – SB 2504

Jobs Impact – Passage of this bill is expected to lead to job creation the extent of which is unknown.

SUMMARY OF AMENDMENTS (014216, 015442, 016047): Amendment 014216 deletes and rewrites all language after the enacting clause such that the substantive changes (1) remove all plants, facilities, or equipment owned by a government-owned electric distributors from applicability, (2) authorize local authorities to charge an additional \$200 fee on the first application filed, (3) increase the maximum application fee charged by local authorities by 10 percent, rounded to the nearest dollar, beginning January 1, 2020, and an additional 10 percent every five years thereafter, (4) increase, from \$35 to \$100, the maximum annual rate allowable for colocation of small wireless facilities on applicable locally-owned structures, (5) authorize local authorities to charge an additional \$100 on certain small wireless facilities on high-volume applications, (6) require applicants to complete deployment of the small wireless facilities on an application within nine months of the application being accepted, (7) require applications for deployment in state rights-of-way (ROW) be submitted to the Tennessee Department of Transportation (TDOT), (8) authorize TDOT to charge an application fee, (9) authorize TDOT to charge an inspection fee, (10) remove requirement of utility relocation reimbursement by TDOT for relocation of SWF infrastructure, (11) authorize TDOT to exercise any regulatory power required to comply with certain federal regulations, (12) authorize TDOT to promulgate rules establishing an annual rate charged for SWFs located on applicable state infrastructure, and (13) require the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) to conduct a study and prepare a report on the impact of the proposed legislation by January 1, 2020.

Amendment 015442 corrects typographical errors within Amendment 014216 and adds clarifying language such that there are no substantive changes.

Amendment 016047 corrects typographical errors within Amendment 014216 and Amendment 015442 such that there are no substantive changes.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

**Increase State Revenue – Exceeds \$2,000,000/FY18-19/Highway Fund
Exceeds \$2,000,000/FY19-20/Highway Fund
Exceeds \$2,000,000/FY20-21/Highway Fund**

**Increase State Expenditures – \$423,600/FY18-19 and Subsequent Years/
Highway Fund**

**Increase Local Revenue – Exceeds \$530,000/FY18-19
Exceeds \$580,000/FY19-20
Exceeds \$630,000/FY20-21
Exceeds \$100,000/FY21-22 and Subsequent Years**

Other Fiscal Impact – The extent and timing of any annual fees promulgated by TDOT as well as any increase in state revenue associated with reimbursement of inspection fees cannot reasonably be determined.

A precise increase in permissive local government expenditures for the hiring of additional staff for permit processing cannot reasonably be determined.

Assumptions relative to permitting positions:

- Resources suggest that deployment of SWF, utilized for the establishment of 5G networks, will require 10 to 100 times the number of antenna locations currently utilized for 3G and 4G networks.
- TDOT has an established permitting and inspection process for utility installations along rights-of-way (ROW).
- In order to process the increased number of permits and inspections required for installation of SWF along ROW, TDOT will require one additional permitting position and one additional inspecting position for each of the four regional offices statewide.
- Additional TDOT employees will result in a recurring increase in state expenditures to the Highway Fund of \$423,596 $\{[(\$41,076 \text{ permit salary} + \$13,741 \text{ benefits}) \times 4 \text{ positions}] + [(\$37,872 \text{ inspection salary} + \$13,210 \text{ benefits}) \times 4 \text{ positions}]\}$.
- Due to multiple unknown factors such as the precise location of such SWF infrastructure deployment, the number of staff currently utilized for permitting in any particular local government, the extent of any additional staff which will be required to process additional permits as a direct result of this legislation, and the extent of any salary and benefits paid, a precise increase in permissive local government expenditures for the hiring of additional positions cannot reasonably be determined.

Assumptions relative to state application fees:

- For the deployment of SWF infrastructure, applications are estimated to occur in FY18-19, FY19-20, and FY20-21.
- If deployment of SWFs occurs in a state ROW, applications are made to TDOT.
- No maximum number of SWFs per application made to TDOT is established.
- The proposed language authorizes TDOT to charge an application fee of \$100 per application for the first five SWFs, and charge \$50 per SWF after the initial five SWFs, within a single application.
- It is estimated there is currently more than 14,000 miles of state-maintained roadway in Tennessee.
- The increase in state revenue to the Highway Fund associated with application fees is estimated to exceed \$2,000,000 in each FY18-19, FY19-20, and FY20-21.

Assumptions relative to local application fees:

- For the deployment of SWF infrastructure, applications are estimated to occur in FY18-19, FY19-20, and FY20-21.

- Applications will be made to local authorities for colocation of SWF onto all structures used for wireline communications, electric distribution, lighting, traffic control, and signage, excluding those owned by municipal electric distributors, which are located in local ROW.
- The proposed language authorizes a local authority to charge a maximum application fee of \$100 per SWF for the first five SWF then a maximum of \$50 for each additional SWF; with a maximum of 20 SWF allowable on one application.
- Local authorities will charge the maximum rate allowable.
- The assessment and collection of application rates will result in an estimated increase in local revenue exceeding \$500,000 statewide in FY18-19.
- In January 2020, the maximum application fee will increase by 10 percent, resulting in an increase in local revenue estimated to exceed \$525,000 in FY19-20, with an increase in local revenue estimated to exceed \$550,000 in FY20-21.
- Each local authority is authorized to charge an additional \$200 fee on the initial application filed by an applicant.
- It is estimated the additional \$200 fee will result in an increase in local revenue exceeding \$20,000 statewide in each FY18-19, FY19-20, and FY20-21.
- For applicants who submit six or more applications to one local authority within a 60-day period who request the local authority to review the application within 60 days of receipt, the applicant can pay a surcharge of \$100 per SWF if the applicant wishes to have it reviewed within the 60-day review period.
- The proposed surcharge will result in an increase in local revenue estimated to exceed \$10,000 statewide in each FY18-19, FY19-20, and FY20-21.
- The total increase in local revenue for application fees is estimated to exceed \$530,000 (\$500,000 maximum application fee + \$20,000 initial fee + \$10,000 surcharge) statewide in FY18-19, \$555,000 (\$525,000 maximum application fee + \$20,000 initial fee + \$10,000 surcharge) statewide in FY19-20, and \$580,000 (\$550,000 maximum application fee + \$20,000 initial fee + \$10,000 surcharge) in FY20-21.

Assumptions relative to state annual rates and inspection fees:

- The proposed language authorizes TDOT to promulgate rules to facilitate an annual rate to be charged on all state-owned structures upon which an SWF is collocated.
- The proposed language would authorize TDOT to charge an inspection fee.
- Pursuant to Rule 1680-6-1-.04 (10) of the TDOT's Rules and Regulations for Accommodating Utilities Within Highway Rights-of-Way, when new utility installations within the ROW of existing highways are complex and require extensive inspectional services by TDOT, the utility agrees to reimburse TDOT for said inspector's salary, equipment use, and miscellaneous expenses applicable to the installation of the utility facilities.
- The extent and timing of any rate which will be promulgated and subsequently charged, and the extent and timing of any inspection fee or reimbursement cannot reasonably be determined, but will result in an increase in state revenue.

Assumptions relative to local annual rates:

- A local authority is authorized to charge a maximum annual rate, for colocation of a SWF on locally-owned poles or other structures that are or could be used for electric distribution, lighting, traffic control, and signage which are owned by the local authority, excluding those structures owned by a distributor of electric power, of \$100 per SWF.
- Local authorities will charge the maximum rate allowable.
- Initial collection of annual rates for colocation of SWF are estimated to begin in FY19-20, increase in FY20-21, and remain constant beginning in FY21-22, upon completion of infrastructure deployment.
- The collection of annual rates will result in an estimated increase in local revenue exceeding \$25,000 in FY19-20, exceeding \$50,000 in FY20-21, and exceeding \$100,000 in FY21-22 and subsequent years statewide.

Assumption relative to TACIR:

- TACIR can conduct a study and produce the required report utilizing existing resources; therefore any increase in state expenditures is estimated to be not significant.

Assumptions relative to total impacts:

- The total recurring increase in state expenditures from the Highway Fund is \$423,596 for additional employees.
- The total increase in state revenue is estimated to exceed \$2,000,000 in each FY18-19, FY19-20, and FY20-21, with additional state revenues which cannot reasonably be determined.
- The total statewide increase in local government revenue is estimated to exceed \$530,000 in FY18-19; exceed \$580,000 (\$555,000 total application fees + \$25,000 annual rates) in FY19-20, exceed \$630,000 (\$580,000 total application fees + \$50,000 annual rates) in FY20-21, and exceed \$100,000 in FY21-22 and subsequent years for collection of annual rates.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENTS:

Increase Business Revenue –

Exceeds \$2,000,000/FY19-20 and Subsequent Years

Increase Business Expenditures –

Exceeds \$3,530,000/FY18-19

Exceeds \$3,580,000/FY19-20

Exceeds \$3,630,000/FY20-21

Exceeds \$100,000/FY21-22 and Subsequent Years

Other Fiscal Impact – Further increases in business expenditures associated with payment of annual rates and inspection fees assessed by TDOT cannot reasonably be determined.

Jobs Impact – Passage of this bill is expected to lead to job creation the extent of which is unknown.

Assumptions relative to business expenditures:

- Private business will experience an increase in business expenditures for application fees estimated to exceed \$2,530,000 in FY18-19, \$2,555,000 in FY19-20, and \$2,580,000 FY20-21.
- There will be an increase in business expenditures for annual rates paid to Authorities for SWF located on poles owned by Authorities. Payments of annual rates are estimated to begin in FY19-20 at \$25,000, increase in FY20-21 to \$50,000, and remain constant at \$100,000 beginning in FY21-22, upon completion of infrastructure deployment.
- Private business electing to install infrastructure required for SWF will experience an increase in business expenditures. The increase in business expenditures is estimated to exceed \$1,000,000 in each FY18-19, FY19-20, and FY20-21.
- The total increase in business expenditure in FY18-19 is estimated to exceed \$3,530,000 (\$2,530,000 application fees + \$1,000,000 infrastructure deployment).
- The total increase in business expenditures in FY19-20 is estimated to exceed \$3,580,000 (\$2,555,000 application fees + \$25,000 annual rates + \$1,000,000 infrastructure deployment).
- The total increase in business expenditures in FY20-21 is estimated to exceed \$3,630,000 (\$2,580,000 application fees + \$50,000 annual rates + \$1,000,000 infrastructure deployment).
- The total recurring increase in business expenditures in FY21-22 and subsequent years are estimated to exceed \$100,000.
- The timing and extent of further business expenditures associated with payment of annual rates and inspection fees assessed by TDOT cannot reasonably be determined.


Assumptions relative to business revenue and jobs:

- Any private business investing in infrastructure required for SWF is assumed to have a similar increase in business revenue occurring as a direct result of the infrastructure investment; however the increase in business revenue is estimated to be realized after such infrastructure has been established. The recurring increase in business revenue is estimated to exceed \$2,000,000 beginning in FY19-20.
- Eight jobs will be added within TDOT as a direct result of this legislation.
- The proposed legislation is estimated to result in a direct increase in the number of jobs in the state. However, any increase in jobs cannot reasonably be determined due to multiple unknown variables such as the number of private businesses who will deploy SWF, the size of any SWF deployment project, the number of additional jobs which will

be needed to fulfill such deployment project, if any jobs required will be full-time, or if any jobs needed will be fulfilled with expansion of the hours of current employees of private business.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee" followed by the letters "RNC" in a smaller, less distinct script.

Krista M. Lee, Executive Director

/jrh